

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

|                               |   |                      |
|-------------------------------|---|----------------------|
| Walter Benn,                  | ) |                      |
|                               | ) |                      |
| Plaintiff,                    | ) | Case No. 1:05-CV-380 |
|                               | ) |                      |
| vs.                           | ) |                      |
|                               | ) |                      |
| James Nicholson, Secretary of | ) |                      |
| Veterans Affairs,             | ) |                      |
|                               | ) |                      |
| Defendant.                    | ) |                      |

Order Adopting Report and Recommendation

On October 17, 2005, United States Magistrate Judge Timothy S. Black issued a Report and Recommendation pursuant to which he recommended that Plaintiff's motion for judgment on the pleadings (Doc. 5) be denied. The basis for the Magistrate Judge's recommendation is that Plaintiff has not demonstrated that he has effected proper service upon Defendant. That conclusion is unassailable, and, though he has objected to the Report and Recommendation, Plaintiff has not identified evidence establishing that service has been made. For that reason, the Court hereby **ADOPTS** the Report and Recommendation and **DENIES** Plaintiff's motion for judgment on the pleadings (Doc. 5). See Fed. R. Civ. P. 72(b). Plaintiff's request for an extension of time within which to effect service is directed to the Magistrate

Judge, and this matter is **REMANDED** to the Magistrate Judge for consideration of that request.

**IT IS SO ORDERED.**

\_\_\_\_\_/s/  
Sandra S. Beckwith, Chief Judge  
United States District Court